

Summary of Task Force Recommendations  
October 12, 2006  
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**Tied House – Ownership (adopted)**

- **Current Regulations:** Statutes generally prohibit suppliers (manufacturers, distributors, importers, authorized representatives) from holding a financial interest in a retail licensee, from owning property on which a retail licensee operates, and from owning a retail license outright. Exceptions have been granted. In particular, wineries and breweries may operate as manufacturer, distributor, and retailer of their own product.
- **Task Force Recommendation (adopted 9Y to 3N):** Encourage the liberalization of the tied house ownership restrictions, and work with the LCB to arrive at a workable solution.

**Tied House – Money’s Worth (adopted)**

- **Current Regulations:** Manufacturers, distributors, importers and authorized representatives are prohibited from providing items of value (money or money’s worth) to retailers. Exceptions have been granted to address specific situations.
- **Task Force Recommendation (adopted 15Y to 0N):** Continue the state’s current approach of providing specific exceptions to the prohibition against providing money’s worth to retailers, and direct the LCB to work with stakeholders to re-examine current exceptions and develop a comprehensive list of proposed exceptions for legislative consideration. When developing the list of recommended exceptions, the LCB should consider: (1) industry business needs, (2) customer benefits; (3) whether it creates an unwanted inducement for retailers; (4) the potential for increased misuse of alcohol, and 5) enforcement resources.

**Use of Common Carriers (adopted)**

- **Current Regulations:** Manufacturers and distributors may not contract common carriers to deliver product to retailers. However, retailers may contract with common carriers to pick up and deliver product to their premises.
- **Task Force Recommendation (adopted 13Y to 2N):** Allow manufacturers and distributors to ship their product to retailers using common carriers and consider establishing a licensing requirement for all common carriers delivering alcoholic beverages regardless of origination.

**Central Warehousing (not adopted)**

- **Current Regulations:** Beer and wine must be delivered directly to the retail licensee’s premises. Central warehousing – storing beer and/or wine at a central location for distribution to individual retail outlets – is therefore, prohibited.
- **Task Force Motion (not adopted, 5Y to 8N):** Allow central warehousing as long as each central warehouse is owned by the retailer, stores and distributes only the retailer’s purchased product to its own licensed retail outlet (i.e. no retailer-to-retailer delivery or sales), the warehouse is appropriately licensed, and documentation is required showing the product was

purchased legally and distributed legally (to licensed establishments) – to allow for appropriate tracking, an audit trail and minimized diversion.

- *Issues discussed: cooperative warehousing (such as Associated Grocers); impact on large entities versus small convenience stores like 7-11; out-of-state warehousing; impact on enforcement; tracking product for taxation purposes.*

### **Post and Hold (adopted as to post only)**

- **Current Regulations:** Post and Hold – the requirement for manufacturers and distributors to post their prices for each SKU with the LCB by a prescribed time each month, to be effective at a later date and hold them from for at least one calendar month after the effective date.
- **Task Force Recommendation (adopted 7Y to 5N):** Eliminate price posting.
  - **Motion #1 (Failed 6Y to 7N):** Eliminate price posting and holding and require manufacturers and distributors to maintain a current and historical price list (for predetermined length of time) at their establishments, available for LCB audit as requested.
  - **Motion #2 (Failed for lack of 2<sup>nd</sup>):**
    - Eliminate price posting electronically and require manufacturers and distributors to maintain a current and historical price list (for predetermined length of time) at their establishments, available for LCB audit as requested. AND,
    - Require a hold only for discounted product, for 14 days (Oregon model) to support price stability and minimize the chance of price wars. AND,
    - Allow administrative changes during the month if a price is incorrectly recorded. Require documentation of administrative changes to be kept for the same period as price lists.

### **Mandatory Minimum Mark-up (adopted)**

- **Current Regulations:** The state requires manufacturers to mark-up the price of their product to a distributor by at least 10% above cost, and for distributors to mark-up the price of their product to retailers by at least 10% above cost.
- **Task Force Recommendation (adopted 7Y to 5N):** Eliminate mandatory minimum markup requirement.
  - *Note concerns that the recommendation is not intended to affect other aspects of pricing regulations such provisions allowing close-outs and prohibitions against selling below cost.*

### **Credit (adopted)**

- **Current Regulations:** Distributors may receive credit terms from product purchased from manufacturers, but retailers must pay cash (or cash equivalent) on delivery for products purchased from a distributor. (Current regulations allow credit to retailers on non-alcoholic products with 30 day terms.)

- **Task Force Recommendation (adopted 9Y to 3N):** Allow the option for manufacturers and distributors to offer credit to retailers, with specific terms – 30 days, and reporting requirements and penalties for default (temporary license suspension and/or cash penalty), such as the Texas model.

### **Uniform Pricing (not adopted)**

- **Current Regulations:** Uniform Pricing – Each product must be offered from manufacturers and distributors to all buyers at the same price.
- **Task Force motion (not adopted 6Y to 7N):** Require uniform pricing on product but allow negotiated delivery and service costs.
  - *Issues discussed: Part of larger pricing issue (current prices reflect cost of product, cost of delivery and cost of services). Prevention/treatment community concerns about market-driven prices.*

### **Volume Discount (adopted)**

- **Current Regulations:** Ban on Volume Discounts - Volume discounts are not allowed under any circumstances for manufacturer or distributor sales. The price per unit must be the same whether they are selling one unit or 1,000 units.
- **Task Force Recommendation (adopted 7Y to 4N):** Allow volume discounts, with the same volume pricing available to all customers. That is, if there are price breaks at 10, 100 and 500 units, those price breaks are offered to all customers.

### **Delivered Pricing (not adopted)**

- **Current Regulations:** The price of delivery must be included in the price of the product, including all related services such as stocking and rotation, and it must be the same for all customers.
- **Task Force Motions (not adopted):**
  - **Motion #1:** Maintain delivered pricing requirement, but with different levels of service and allow for surcharges for fuel or excessive distances. (Failed 2Y to 10N)
  - **Motion #2:** Eliminate delivered pricing requirement and allow for negotiated delivery prices. (Tied vote 7 to 7. Does not go forward.)

### **LCB Enforcement Resources (adopted)**

- **Task Force Recommendation (adopted 15Y to 0N):** The Task Force recommends that the LCB be supported by adequate enforcement resources and that those resources grow in consideration of population increases and increases in liquor licenses.

### **2SSB 6823 Impact Measures (adopted)**

- **Current Regulations:** 2SSB 6823 requires the task force to examine the impacts of implementing the expansion of the self-distribution authority to out-of-state manufacturers.
- **Task Force Recommendation (adopted 11Y to 0N):**

The LCB should identify and select key impact measures that can be monitored and analyzed by the Fall of 2007, to provide the Legislature with data about the impacts related to the implementation of 2SSB 6823.

The LCB is encouraged to work with stakeholders and legislative staff to identify the most pertinent impact measures. Key impact measures should be tied to the state’s policy goals and should address the impact to industry, consumers, the state and society. And, to the extent possible, consideration should be given to selecting measures for which baseline data is already available. Basic data should be collected and reported; suggestions include:

- the number endorsements granted to of out-of-state manufacturers and in-state retailers to use the expanded authority;
- the volume of product sold through out-of-state self-distribution;
- the size and type of retailers using the authority; and
- tax revenue collections.

**General Impact Measures (adopted)**

- **Current Regulations:** NA
- **Task Force Recommendation (adopted 10Y to 2N, 1 abstain):** The Legislature is encouraged to provide funding to the LCB to develop research and analysis capability, and work collaboratively with stakeholders and other agencies and organizations to collect independent data, and to use/analyze existing data.

**Task Force Recommended Policy Goals (adopted)**

- **Preamble to the recommended policy goals decided by the Task Force (adopted 17Y to 0N)**

The task force believes that an appropriate alcohol regulatory system for beer and wine sales and distribution should be based upon the three policy goals set forth below. In creating and interpreting such a regulatory system, the Legislature and the LCB should consider the economic development of wineries and breweries and related industries, so long as the LCB and the Legislature also consider any adverse impact of any proposals on public health safety or welfare.

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[These are the three goal recommendations agreed upon previously and referred to in the preamble:]

Goal #1 - Prevent the misuse of alcohol.

- “Misuse of alcohol” includes underage sales/drinking, driving while under the influence, serving to inebriated consumers, public inebriation, sales outside of the regulated system, or any other use that could promote public harm or create safety or nuisance issues.
- In an attempt to prevent misuse, the state should not affect responsible moderate consumption.

- “Responsible moderate consumption” is the public sale/consumption of alcohol by legal adults, without misuse.

Goal #2 - Promote the efficient collection of taxes.

Goal #3 - Promote the public interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption.

- The LCB’s working interpretation of this goal is: the avoidance of pressure on any one industry (producers, distributors, or retailers) from another that would cause collusion or result in unfair advantages or disadvantages that may result in over-consumption or increased access by minors.

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